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Hearing Date: October 22, 2009 at 10:00 a.m.
Response Date: September 21, 2009

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*Attorneys for Defendants J. Ezra Merkin
and Gabriel Capital Corporation*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	
	:	
BERNARD L. MADOFF INVESTMENT	:	SIPA LIQUIDATION
SECURITIES LLC,	:	
	:	No. 08-01789 (BRL)
Debtor.	:	
-----	X	
IRVING H. PICARD, Trustee for the Liquidation	:	
of Bernard L. Madoff Investment Securities LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Adv. Proc. No. 09-01182 (BRL)
	:	
J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,	:	
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,	:	
GABRIEL CAPITAL CORPORATION,	:	
	:	
Defendants.	:	
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**DEFENDANTS J. EZRA MERKIN'S AND
GABRIEL CAPITAL CORPORATION'S NOTICE OF MOTION
TO DISMISS PLAINTIFF'S AMENDED COMPLAINT**

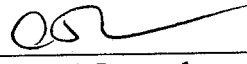
PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Defendants J. Ezra Merkin's and Gabriel Capital Corporation's Motion to Dismiss Plaintiff's Amended Complaint, Defendants J. Ezra Merkin ("Merkin") and Gabriel Capital Corporation ("GCC, and together with Merkin, the "Merkin Defendants") will move before the Honorable Burton R. Lifland, United States Bankruptcy Judge, United States Bankruptcy Court, Southern District of New York, pursuant to Federal Rule of Civil Procedure 12(b)(6), which is made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 12(b), for an order dismissing the Amended Complaint as to the Merkin Defendants.

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion will be held on October 22, 2009 at 10:00 a.m., at the United States Courthouse, One Bowling Green, New York, New York.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, to the Motion shall be filed with the Bankruptcy Court and served upon counsel for the Merkin Defendants, Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036, Attn: Andrew J. Levander, Esq., by no later than September 21, 2009. Reply papers, if any, shall be filed with the Bankruptcy Court and served upon counsel for Plaintiff, Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, New York 10111, by no later than October 7, 2009.

Dated: New York, New York
September 4, 2009

DECHERT LLP

By: 
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